THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 23238 of 2005

Between:

M/s. Sri Rama & Company, I.O.C. Wholesale Kerosene Dealers, Yellandu-507123, Khammam District, Rep. by its Proprietor, Punem Rama Murthy,

..... PETITIONER

AND

The District Collector, (C.S. Wing), Khammam-507 001,

.....RESPONDENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 23238 of 2005

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ORDER:

When the vacate stay petition is listed for hearing, with the consent of the learned counsel for both the parties, the main writ petition is heard and decided.

The writ petitioner is a dealer of the Indian Oil Corporation and carrying on wholesale Distribution of Keresene Oil at Yellandu, Khammam District under a licence granted as per the provisions of the A.P Petroleum Products (L & R.S) Order, 1980. This writ petition is filed aggrieved by the order passed by the respondent dated 24.10.2005 whereunder, the B.Form licence held by the petitioner was temporarily suspended with immediate effect under Clause 28

(2) of the A.P. Petroleum Products (L & R.S) Order, 1980, pending further action on the ground of alleged diversion of PDS Kerosene oil to the black market to gain illegal profits in violation of the provisions of Clause 24 of the A.P. Petroleum Products (L & R.S) Order, 1980 as well as the condition No.5 of B-Form licence.

The contention of the writ petitioner is that the respondent has no power or authority to suspend the license of the petitioner pending enquiry without issuing any prior notice in purported exercise of his power under Cl.28 (2) of the Control Order, since no action was contemplated or initiated against the petitioner. In support of his contention, the learned counsel for the petitioner placed reliance on the decisions of this court 1990 (2) ALT 20 and 2003 (1) ALD (Crl) 430.

In the counter affidavit filed by the respondent the fact that the impugned order was not preceded by a show cause notice has not been disputed. Further, it is stated that subsequently on 29.10.2005 a show cause notice was issued calling upon the petitioner to explain the violations specified thereunder.

Since it is clear from the counter affidavit that there was no notice to the petitioner before issuing the impugned order of suspension and no action was initiated as on the date of the impugned order, and keeping in view of the ratio laid down by this Court in the above decisions, the impugned order to the extent of suspension of the B-Form licence of the petitioner pending enquiry is set aside. However, it is left open to the respondents to proceed with the enquiry initiated against the petitioner following the due process of law.

Writ petition is disposed of accordingly. No costs.

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02.02.2006

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